



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 19328872

Date: DEC. 8, 2021

**Motion on Administrative Appeals Office Decision**

Form I-140, Immigrant Petition for Alien Worker (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, an assistant professor, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We agreed with the Director and dismissed the Petitioner's appeal. He has filed a motion to reopen and reconsider our decision. With the motion, the Petitioner submits additional documentation and a brief asserting that he is eligible for a national interest waiver.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon review, we will dismiss the motion to reopen and reconsider.

**I. LAW**

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). In addition, a motion to reconsider must (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy, and (2) establish that the decision was incorrect based on the evidence in the record of proceedings at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

**II. ANALYSIS**

In our March 2021 decision, we concluded that the Petitioner had not sufficiently identified or provided consistent information and evidence regarding his proposed endeavor, and thus had not demonstrated eligibility for a national interest waiver under the first prong of the analytical framework

set forth in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016).<sup>1</sup> We explained that the documentation submitted in support of the petition related to the Petitioner's past research rather than his future plans to conduct geology and environmental sciences research aimed at climate change and global warming. We further noted that while the Petitioner identified a wide variety of possible research topics in areas such as geology, environmental sciences, oil and gas, oceanography, micropaleontology, and stratigraphy, the record did not include sufficient information or supporting documentation to corroborate in which of these varying proposed research areas he will work on in the United States, nor had he identified research projects he intends to undertake in this country to mitigate global warming or climate change. Additionally, we determined that the Petitioner had not demonstrated that his prospective teaching work stands to have broader implications rising to the level of having national importance, as he had not shown how the effects of his instructional activities would extend beyond the students he taught. Because the Petitioner had not established that his prospective work as a geology and environmental sciences researcher or teacher stands to have broader implications rising to the level of having national importance, we concluded that he had not satisfied the "national importance" requirement of *Dhanasar*'s first prong.

#### A. Motion to Reopen

The Petitioner presents new evidence on motion relating to his claim that he is eligible for a national interest waiver. Specifically, he submits a November 2020 letter from the Geological Society of America (GSA) inviting him to serve on the GSA International Committee as a member-at-large for a period of four years. The GSA letter states that the "function of this committee is to serve as GSA's coordination and communication resource seeking to promote, create, and enhance opportunities for international cooperation related to the scientific, educational, and outreach missions shared by GSA and like-minded professional societies, educational institutions, and government agencies," but it does not identify the research or teaching projects that the Petitioner plans to undertake.

In addition, the Petitioner provides emails from [redacted] University relating to teaching opportunities in 2020 and 2021. He also submits an August 2021 letter stating that he is currently working as an assistant professor in the Department of Earth, Environmental and Planetary Sciences at [redacted] University [redacted]. Furthermore, the Petitioner presents a July 2021 job offer letter from [redacted] indicating that he would be teaching classes on "Weather and Climate" and "Global Environmental Problems." This evidence, however, does not show that the benefits of his instructional activities have broader implications for his field, as opposed to being limited to the students at the university where he intends to teach.<sup>2</sup>

The motion also includes the Petitioner's updated curriculum vitae, a paper he coauthored examining the impact of [redacted], citation information relating to his scholarly work, and documentation indicating that he gave a career path

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<sup>1</sup> *Dhanasar* states that after a petitioner has established eligibility for EB-2 classification, USCIS may, as matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the foreign national's proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

<sup>2</sup> In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893.

presentation (October 2020) which offered guidance on conference participation to “fledgling geoscientists.”<sup>3</sup> The Petitioner, however, has not sufficiently documented the future research projects he plans to undertake or shown that his proposed work supports a finding of national importance.

In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead we focus on the “the specific endeavor that the foreign national proposes to undertake.” See *Dhanasar*, 26 I&N Dec. at 889. The evidence presented on motion does not establish that the Petitioner’s prospective work as a geology and environmental sciences researcher, teacher, or assistant professor stands to have broader implications rising to the level of having national importance. Accordingly, while the Petitioner has offered new evidence, this documentation does not demonstrate new facts showing that he meets the “national importance” requirement of *Dhanasar*’s first prong, and therefore he has not overcome our prior determination.

#### B. Motion to Reconsider

The Petitioner contends on motion that our appellate decision “applied a legally incorrect standard concerning the national interest waiver’s ‘national importance’ criterion by focusing only on [the Petitioner’s] job title rather than his ongoing, continuing, and university-supported impactful research.” He argues that we erred with respect to “the national interest waiver’s ‘no job offer’ requirement” and “gutted the main purpose of the NIW case.” The Petitioner further asserts that our decision “establishes a *de facto* job requirement which is legally incorrect.” He also states that eligibility for a national interest waiver “is based on expertise, and consistent impact, not the availability of funding” or where an individual will be working.<sup>4</sup>

Our decision, however, did not indicate or imply that a job offer was required under the *Dhanasar* analytical framework.<sup>5</sup> As noted in our decision, we considered information about the Petitioner’s current and prospective positions to illustrate the capacity in which he intends to work in order to determine whether his proposed endeavor meets the requirements of the first prong of the *Dhanasar* framework. In determining national importance, we focus on the “the specific endeavor that the foreign national proposes to undertake.” *Id.* at 889. While the Petitioner identified a wide variety of possible research topics, he did not offer sufficient information or supporting documentation to corroborate in which of these varying proposed research areas he will work on in the United States, nor had he identified the specific research projects he intends to undertake in our country to mitigate global warming or climate change.

Regarding his eligibility under prong two of *Dhanasar*, the Petitioner asserts that he has a stronger citation record and is affiliated with “more prestigious” universities than Dr. Dhanasar, the petitioner in our *Dhanasar* precedent decision. While we mentioned Dr. Dhanasar’s university and “publications

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<sup>3</sup> The Petitioner’s knowledge, skills, and experience in his field relate to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar*’s first prong.

<sup>4</sup> We consider a petitioner’s expertise, research funding, and impact on the field among other factors under *Dhanasar*’s second prong in determining whether an individual is well positioned to advance their proposed endeavor. *Id.* at 890.

<sup>5</sup> We specifically stated: “As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for him to have a job offer from a specific employer.”

and other published materials that cite his work” as part of our discussion of his evidence, our determination that Dr. Dhanasar was well positioned under the second prong was not based on his university affiliation or citation record. Rather, in our precedent decision we found “[t]he petitioner’s education, experience, and expertise in his field, the significance of his role in research projects, as well as the sustained interest of and funding from government entities such as NASA and AFRL, position him well to continue to advance his proposed endeavor of hypersonic technology research.” *Id.* at 893. Nonetheless, in the present matter, our appellate decision did not render a determination relating to the Petitioner’s eligibility under prong two of the *Dhanasar* framework.<sup>6</sup>

The Petitioner’s arguments do not establish that we erred in concluding that he had not satisfied the “national importance” requirement of *Dhanasar*’s first prong. The Petitioner therefore has not met the requirements for a motion to reconsider as he has not shown that we erred in our previous decision based on the record before us on appeal. In addition, the motion to reconsider does not establish that our dismissal of his appeal was based on an incorrect application of law, regulation, or USCIS policy.

### III. CONCLUSION

The Petitioner has not shown that we erred as a matter of law or USCIS policy in dismissing his appeal, nor has he established new facts relevant to our decision that would warrant reopening of the proceedings. Consequently, we have no basis for reopening or reconsideration of our appellate decision. The Petitioner’s appeal therefore remains dismissed, and his underlying petition remains denied.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.

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<sup>6</sup> We determined that because the Petitioner had not established the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, he had not demonstrated his eligibility for a national interest waiver. Accordingly, we noted that further analysis of his eligibility under the second and third prongs outlined in *Dhanasar* would serve no meaningful purpose.